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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,677	06/12/2001	Yesim Erke	END920010025US1	5004

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EXAMINER
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ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/879,677

Applicant(s)

ERKE ET AL.

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-23 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8-13, 19, 20 and 23 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6, 7, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

Claims 1-2, 8-13, 19-20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Peterson et al. '522 in view Feigin et al. '196.

Peterson et al. '522 disclose or inherently teach a method of determining inventory levels of parts for a plurality of stocking locations (i.e., vendors); the method comprising the steps of providing data and request rates (i.e., purchase orders) for a plurality of customer (i.e., end user) locations, unit price, handling costs (Col. 5, line 15), and transportation costs (see Col. 5, line 14) for other vendors and customers.

Peterson et al. '522 lack the teaching of the providing handling costs, travel time, specifying a parts procurement time performance measure and entering the data into a computer program, computing inventory levels using the computer program and ordering to maintain part inventory levels.

Feigin et al. teach a method of determining inventory levels of parts for a plurality of stocking locations (retail locations) including a parts procurement time performance measure (lead time, "L" which includes travel time) and entering the data into a computer program, computing inventory levels using the computer program and ordering to maintain part inventory levels.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Peterson et al. to include a parts procurement time performance measure and entering the data into a computer program, computing inventory levels using the computer program and ordering to maintain part inventory levels, in view of

Feigin et al., in order to provide a means to more accurately project future inventory levels (See Feigin et al., Col. 1, lines 11-16).

Re claims 1, 11, 19 and 20: Feigin et al. teach the claimed parts procurement time performance measure (i.e., See, for example, Col. 10, lines 39-54; specifically "Method 1 estimates the fill rate to be 63% in weeks 6-16").

Re claims 8 and 11: mixed integer optimization programs are well known in the art of computer programming, and their use would have been an obvious design choice to one of ordinary skill in the art at the time of the invention, in order to provide certain desired results.

Re claims 9, 12-13, and 23: It is an obvious business practice to compute inventory levels that maximizes the number of parts transferred at a given cost and to exercise cost constraint in order for the business to be as efficient as possible and thus maximize potential profit. For example, Peterson et al. state the desirability of "efficiently transferring inventory" in Col. 1, lines 64-65.

Re claim 10: Shipping companies such as "**FedEx**" provide information with regards to the time of shipping; and to compute this information would have been obvious to one of ordinary skill in the art at the time of the invention in order to provide the customer with precise delivery times.

#### ***Allowable Subject Matter***

Claims 3, 4, 6, 7, 21, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed 10/01/04 have been fully considered but they are not persuasive.

The applicant argues on page 11, lines 1-3, that the application is different than Peterson et al. in that it the application has parts available for transfer "within a given period of time". However, Peterson et al. inherently teach this limitation in column 5, lines 55-59.

On page 12, first full paragraph, the applicant argues that Feigin et al. teach a "result" and not an input. However, when Feigin's teachings are combined with Peterson's teachings (step 50), the "result" in Feigin would be an input in Peterson's calculation. Thus, the combination of Peterson et al. and Feigin et al. do teach the limitation of the claim.

On page 12, 2<sup>nd</sup> full paragraph, the applicant argues that prior art lacks the teaching of "within a pre-specified time". However, Feigin et al. teach time periods of one week (See Col. 10, lines 48-49; "fill rate to be only 63% (1-3.75/10) in weeks 6-16").

The applicant then argues on pages 13-14 that a retailer cannot be a customer. However, the argument is not persuasive for the same reason given in the Office action mailed 7/28/2004. Regarding the last full paragraph of page 14, the applicant has it correct when he states that "the dealership would be acting as a customer for the part". This is an example of how retail locations could act as customer locations. The applicant argues that the dealership cannot be both a customer and retailer with respect

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to a given part. However, this is an irrelevant point as it does not matter what the retailer is selling. The retailer can be a "customer" of power wrench tools while being a seller/retailer of cars.

Applicant argues on page 15, first full paragraph, that Examiner has not provided arguments with respect to claim 2. However, in the fourth paragraph of the 35 USC 103 rejection above, the Examiner has indicated that Feigin et al. teach "travel time".

Re claims 8 and 11; the Examiner maintains that the specific use of a "mixed integer optimization program is a design choice that is known in the art. See Guy et al., Col. 1, lines 44-60.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

F. Zeender  
Patent Examiner, A.U. 3627  
January 18, 2005

  
F. RYAN ZEENDER  
PRIMARY EXAMINER